LAW REFORM
COMMISSION
OF
NOVA SCOTIA

Fifteenth Annual Report
April 1, 2005 to March 31, 2006

106-07434

LAW REFORM
COMMISSION
OF
NOVA SCOTIA

FIFTEENTH ANNUAL REPORT

April 1, 2005 to March 31, 2006

The Law Reform Commission of Nova Scotia was established by the Government of Nova Scotia under the Law Reform Commission Act, S.N.S. 1990, c.17. It began operation in 1991.

The Commissioners for 2005-2006:

Keith R. Evans, President
Anthony R. Chapman
Thomas A. Cromwell
Diana Ginn
Darlene Jamieson
John L. McMullan (appointed February 2006)
E. Arleen Paris

The Commission staff in 2005-2006:

John E.S. Briggs
Executive Director and General Counsel

William H. Laurence
Legal Research Counsel

Mary Bowen,
Administrative Assistant

The Commission offices are located at:

1484 Carlton Street
Halifax, Nova Scotia
Canada B3H 3B7
Telephone: (902)-423-2633
Fax: (902)-423-0222
E-mail: info@lawreform.ns.ca
Website: www.lawreform.ns.ca.

The work of the Law Reform Commission of Nova Scotia for fiscal year April 1, 2005 - March 31, 2006 was funded by the Law Foundation of Nova Scotia and by the Government of Nova Scotia.
The Commission gratefully acknowledges this financial support.

TABLE OF CONTENTS

A. OVERVIEW OF THE LAW REFORM COMMISSION 1
Mandate 1
Law Reform Process 2
Effects of Law Reform Work 3
Funding 3

B. THE YEAR IN REVIEW 2005-2006 4
Work Program and Publications 4
- ➤ The Rules Revision Project 4
- ➤ Vexatious Litigants 5

Work in Progress 6
- ➤ Rules Revision Project 6
- ➤ Small Claims Court Project 6
- ➤ Grandparents-Grandchildren: Access 7
- ➤ Partnership: Saint Mary's University 7

External Activities and Relations 8
Internal Administration and Organization 9
Funding & Finances 9

C. TAKING STOCK AND LOOKING AHEAD 10

D. COMMISSIONERS AND STAFF 11
Commissioners 11
Staff 13

APPENDICES

A. The Law Reform Commission Act
B. Financial Report for the 2005-2006 Fiscal Year
C. List of Publications (by project) 1991-2006

A. OVERVIEW OF THE LAW REFORM COMMISSION

The Law Reform Commission of Nova Scotia was created by the Government of Nova Scotia under the *Law Reform Commission Act*.[1] The Commission consists of between five and seven Commissioners (there are currently seven), an Executive Director and legal research and administrative staff. The Commission reports to the public and the elected representatives of Nova Scotia through the Attorney General of Nova Scotia. It is not, however, a government department, but an independent advisor to government. The Commissioners, whose appointment process is set out in the *Act*, currently serve part-time and come from different sectors of the community. One Commissioner is a judge appointed by the Governor in Council (provincial Cabinet) after consultation with the Chief Justice of Nova Scotia and the chief judge of the court of which the judge is a member; two are community representatives appointed by Cabinet; two are appointed by the Council of the Nova Scotia Barristers' Society; and one person represents the full-time members of the Faculty of Law, Dalhousie University. One of the Commissioners must not be a graduate in law.

Mandate

The Commission's job is to review Nova Scotia law and to make recommendations for its improvement, modernization and reform. This may involve formulating new ideas and approaches to law, or proposing ways in which existing laws and the legal system can be made clearer or simpler to better serve the needs of the province. The Commission may choose a topic for law reform based upon suggestions received from government, lawyers, judges, or the community. A project may also follow a government request, generally known as a reference. Since 1991, the Commission has received four references from the Government. The references related respectively to the administrative justice system, the probate system, mental health provisions of the *Hospitals Act*, and adoption information law.[2]

The Commission does not make law in Nova Scotia; that task is performed in part by the elected Members of the House of Assembly. The Commission's reports and recommendations are, however, formally presented to the Attorney General and may result in changes to the law. Law is also made through the decisions of judges and appointed administrative decision-makers in cases that come before them.

A distinguishing characteristic of the Commission is its independence from government. Although in the past the Commission received a significant portion of funding from government, on average about one third of its money came from other sources. Government has a role in Commissioner

---

1 S.N.S. 1990, c.17, reproduced at **Appendix A**.

2 Reports on the administrative justice, probate, and *Hospitals Act* projects have been completed. Following completion of background research, work on adoption information law was suspended after news in 2000 of the loss of government funding. The project was subsequently referred to a committee formed by the Minister of Community Services.

selection, but does not choose all of the Commissioners, and no Commissioner is chosen to represent the Government. The Commission does undertake government requests for law reform projects, as far as is feasible, but apart from that requirement, is free to select the work it undertakes. So long as done in compliance with its object and powers under the *Act*, the Commission enjoys a free hand in terms of its activities: it may conduct meetings, hire people, perform research, publish reports, enter into cooperative arrangements with other entities, and decide how its funds are to be spent.

Law Reform Process

The Commission usually prepares two publications during the course of a project. The first publication, the ***Discussion Paper***, sets out the Commission's preliminary suggestions for reform. The purpose of the Discussion Paper is to encourage people to consider and comment on the Commission's preliminary suggestions, as well as any issues, principles, and assumptions identified as having influenced the Commission's proposals for reform.

As part of the preparations for a Discussion Paper, the Commission generally forms an ***Advisory Group***. The Advisory Group usually consists of Commission legal staff, and a number of community members, including government representatives, the judiciary, lawyers and other professionals, as well as participants from groups with interest or expertise in the topic being studied. The Group meets to identify and discuss relevant issues, as well as to propose to the Commission what should be included in a Discussion Paper.

The second publication is a ***Final Report,*** which is submitted to the Attorney General, and which is widely distributed. It contains the final recommendations of the Commission and, in some cases, a draft law. The Commission makes its final recommendations after it takes into account the responses it receives to the Discussion Paper. A Final Report is intended to provide a basis for the Government to consider and adopt the recommended reforms. The process adopted by the Commission, of seeking expert advice, consulting widely, synthesizing feedback, deliberating and report writing, is a time-consuming one. It is a process, however, which is designed to give greater weight and credibility to the final recommendations which result. The Commission does not engage in active advocacy regarding implementation of its recommendations beyond providing the recommendations to the Government and members of the public. The Commission has produced 36 project reports and 14 annual reports, which are listed at **Appendix C**. [All reports can be downloaded without cost from the Commission's website.]

Effects of Law Reform Work

Recommendations in Commission Final Reports have been brought into effect in a number of ways. Most recently, the Nova Scotia Government introduced new legislation: *Involuntary Psychiatric Treatment Act* (SNS 2005 c.42) thereby implementing many of the recommendations in the Commission's February 2002 Final Report on the Mental Health Provisions of the *Hospitals Act*. In 2004, the Government also amended the *Mechanics' Lien Act*, based upon the recommendations in the Commission's 2003 Final Report, *Builders' Liens in Nova Scotia: Reform of the Mechanics' Lien Act*. The influence of the Commission's work, however, goes beyond legislation. Certain Final Report recommendations have been implemented through government policies or protocols. Commission reports have also served an important educational function and have been used as course materials in high schools and at post-secondary institutions. Government, public interest groups, and other organizations have relied on Commission reports in order to develop awareness of issues and to focus discussions among interested people. For instance, *Law Reform Agencies*, a 2004 publication of the International Cooperation Group of the Federal Department of Justice, reflected the influence of Commission reports.

The contents of Commission reports have been referred to by a number of courts, including the Supreme Court of Canada, as part of their published case decisions. Judges have mentioned Commission reports in a number of contexts including interim payment of damages, matrimonial property, administrative law, the jury system, powers of attorney and the legal status of the child born outside of marriage.

Nova Scotia House of Assembly members from the Liberal, New Democratic, and Progressive Conservative parties have referred with approval to Commission reports or to Commission work generally, during the course of legislative debates.

Most of the Commission's time is spent choosing, discussing, and researching law reform subjects, followed by report writing and communicating the conclusions reached. Another significant role of Commission staff is responding to inquiries about the law or about aspects of the Commission's work. The Commission does not provide legal advice, nor does it intervene in individual cases. Nonetheless, Commission staff continue to respond to inquiries by telephone, by fax, by letter, by e-mail, or in person. In replying to inquiries, Commission staff have provided legal information, copies of Commission reports as well as other documents, and contact details for government departments and other relevant institutions.

Funding

The Commission is currently funded jointly (50% each) by the Nova Scotia Department of Justice and the Law Foundation of Nova Scotia. The Law Foundation, which funds work relating to the law, legal education, and the administration of justice, obtains its funds from the interest on lawyers' general trust accounts. The Law Foundation's objectives specifically include law reform.[3]

[3] *Barristers and Solicitors Act*, R.S.N.S. 1989, c. 30, s. 55.

B. THE YEAR IN REVIEW 2005-2006

Work Program and Publications:

► The Rules Revision Project

The work of the Rules Revision Project continued to be the Commission's major preoccupation for the second year in a row. By May of 2005, all working groups had completed their work and submitted their final reports for the consideration of the Steering Committee. The working groups were as follows:

- Appeals
- Determinations Without Trial
- Discovery and Disclosure
- Early Dispute Resolution
- Evidence
- Judicial Review
- Management of Litigation
- Smaller Claims

All working group reports are posted on the Courts website (www.courts.ns.ca/Rules), and accessible through the Law Reform Commission's website (www.lawreform.ns.ca).

The principal drafters of the new rules are a Nova Scotia Supreme Court Judge, and a senior solicitor on secondment from the Department of Justice. The Drafters have been engaged in the drafting process on a full time basis since September of 2005.

The Steering Committee held further consultations with the Bar in Sydney (October 2005) and Halifax (November 2005).

Throughout the reporting period, the Commission has continued to provide research and perform related activities in support of the work of both the Steering Committee and the drafters of new rules. The Rules Revision project will continue to be the Commission's first priority until such time as it is completed. At present, it is anticipated that the Commission will continue to be regularly tasked with a significant number of responsibilities in support of this project, at least until the end of the 2006 calendar year.

➤ Vexatious Litigants

The Commission decided early in the reporting period, following representations from both the judiciary and the practicing Bar, to undertake a project on Vexatious Litigants.

In accordance with its usual practice, the Commission established an advisory group to assist in identifying and addressing issues relevant to the problem of vexatious litigants. The Commission published a Discussion Paper on vexatious litigants in December 2005. A Final Report with recommendations for government, although approved for publication by Commissioners in March 2006, was not returned from the printers until after the reporting period.

Vexatious litigants are people who persistently engage in legal proceedings, without having a valid claim to be heard by the courts. Vexatious litigants may sue in order to annoy, harass, or financially punish other people.

Vexatious litigants can waste the time of judges and administrative staff and prevent other, legitimate claims from being dealt with. Vexatious litigants can also force other people to incur otherwise unnecessary legal bills, by having to defend themselves against merit less claims. Vexatious litigants can therefore pose a serious problem for Nova Scotia's civil justice system. Although statistics aren't kept about the number of vexatious litigants in the province, it's clear that a small number of people can tie up a large amount of resources and cause a great deal of disruption by making groundless claims.

Vexatious litigants pose challenges to judicial systems across the country. Legislation or court rules meant to control vexatious litigants are in place respectively in 7 other provinces, as well as in the Supreme Court of Canada and the Federal Courts of Canada. Access to justice is a fundamental right in our society. Unfortunately, vexatious litigants can abuse that right, by repeatedly bringing to court claims which have no merit. To help ensure access to the courts for all, as well as to prevent the abuse of the courts' process and the waste of time and money, the Law Reform Commission suggests the adoption of a vexatious litigants statute in Nova Scotia.

The proposed statute would explicitly empower the courts to make an order against a vexatious litigant. The order would prevent a vexatious litigant from starting any new proceedings or continuing with an existing proceeding until court leave was granted to lift the order. A balanced approach would be used, one which empowers the courts to deal effectively with vexatious litigants, but which also permits someone subject to a court order to seek court leave to have the order lifted when circumstances change.

Work in Progress

➢ Rules Revision Project

As noted above, the Rules Revision Project will continue to be the Commission's priority project until its completion, now estimated to be in the Spring of 2007.

The work of this project and the proposed revisions to the Civil Procedure Rules represent a very worthwhile attempt to ameliorate some of the factors which contribute to costs, delays, and complexity in the civil justice system. The Law Reform Commission is pleased to have had the opportunity to contribute to this important work of rules revision. Ultimately, it is to be hoped that the end result will be a more accessible justice system for all Nova Scotians.

➢ Small Claims Court Project

In the fall of 2005, following a number of meetings with colleagues at Saint Mary's University, the Commission agreed to undertake a collaborative project with Saint Mary's which would examine the workings of the Small Claims Court. The Small Claims Court had been established some 25 years ago following recommendations of the Commission's predecessor, the Nova Scotia Law Reform Advisory Commission. The original *raison d'être* of the Small Claims Court was to make justice more accessible by providing citizens with an informal and inexpensive forum within which they could have their disputes resolved quickly without the necessity of retaining a lawyer. The current backdrop of the inaccessibility of the larger civil justice system, in all jurisdictions in Canada today - the exorbitant costs, delay and complexity - provided the stimulus for this project. The Commission is of the view that there is merit in examining the workings of the Small Claims Court from two perspectives, namely 1) how effectively it is responding to its original mandate, and 2) what might the system at large usefully learn, and possibly adopt, from the workings of the Small Claims Court. The Commission hopes that this project will contribute to a better understanding of how the justice system actually works. There is shockingly little empirical socio-legal research conducted in Canada on the civil justice system. Saint Mary's will provide the social science expertise for this project.

Although the project is still at the early stages of development, we have already had very useful meetings with Small Claims Court officials and adjudicators. We are also encouraged by the interest shown in this project by a number of agencies including the Canadian Forum on Civil Justice and the Law Commission of Canada.

➢ Grandparents-Grandchildren: Access

In January 2006, the Commission received a request from the Attorney General of Nova Scotia that it consider undertaking a project focused on the issue of grandparents' access to grandchildren, and any recommendations for reform. The Commission agreed to undertake this project, and before the end of the reporting period had initiated preliminary research and the establishment of a project advisory group. It is anticipated that a Discussion Paper on this topic will be issued during the fall of 2006.

➢ Partnership: Saint Mary's University

In May 2005, a meeting was held at Commission offices between the Commissioners, and the President and Vice-President of Saint Mary's University, and other senior administrators and faculty. Following that meeting, further discussions were held with our Saint Mary's partners, culminating in an agreement to pursue a collaborative project focused on the Small Claims Court. The Commission is very pleased about this tangible expression of its partnership with Saint Mary's and optimistic about future collaborative activities. The relocation of Commission offices to Saint Mary's University remains a priority objective. Our partnership has also been strengthened as a result of the recent appointment of Dr. John McMullan to the Commission's Board. Dr. McMullan is a professor in the Sociology and Criminology Department of the Faculty of Arts at Saint Mary's University. The interaction flows in the other direction as well, as a result of the Commission's Legal Research Counsel, William Laurence, being invited by Saint Mary's Faculty of Business to conduct a course on Business and the Law during the upcoming summer term.

External Activities and Relations

The Commission and its staff consider it particularly important to maintain close liaison with the practicing bar, the judiciary, the legal academic community, the Government and others.

The Commission's Legal Research Counsel, William Laurence, made a presentation on Vexatious Litigants to the Fall Forum of the Legislation and Law Reform Committee of the Nova Scotia Branch of the Canadian Bar Association.

Commission staff have attended and participated in a number of external meetings and conferences during the past year in addition to many less formal activities. In particular the Commission's Executive Director participated in the Annual Meetings of:

- the Nova Scotia Barristers' Society
- the Federation of Law Reform Agencies of Canada
- the Uniform Law Conference of Canada

In addition the Executive Director attended various meetings and events hosted by such organizations as the Legal Information Society of Nova Scotia, the Canadian Bar Association - Nova Scotia Branch, the Nova Scotia Barristers' Society and the Law Commission of Canada.

The Executive Director also met with the President and Commissioners of the Law Commission of Canada, the Treasurer of the Law Society of Upper Canada, the President of the Federation of Law Societies of Canada, the President of the Canadian Bar Association, the President and the Executive Director of the Nova Scotia Barristers' Society.

The Commission has also continued to maintain and strengthen its relations with sister law reform bodies and other participants in the justice system. The Executive Director is the current President of the Federation of Law Reform Agencies of Canada, and in that capacity hosted a weekend workshop of member agencies in Kananaskis, Alberta in May 2005. It had been some four years since member agencies had the opportunity to get together and the workshop provided an excellent opportunity to reconnect, establish new friendships, discuss issues of mutual interest, and to strengthen the ties between member agencies. The meeting was made possible as a result of the financial support of the Law Commission of Canada, and the Alberta Law Reform Institute.

In March of 2006, the Executive Director, as part of a three person Canadian delegation, participated in a conference on judicial and law reform, in Buenos Aires, Argentina.

During the reporting period Commission work was mentioned in such news media as The Lawyers Weekly. Commission reports were also mentioned in Canadian Bar Association and Nova Scotia Barrister's Society publications, other law reform agencies' reports and Nova Scotia Government publications, the Queen's Law Journal and the Commonwealth Law Bulletin, a publication of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat.

The Commission's website continues to maintain an open invitation to the public for project suggestions and new ideas for law reform. As well, the Nova Scotia Courts website links to that of the Law Reform Commission for interaction concerning the Rules Revision Project.

Internal Administration and Organization

The Commission currently has a full roster of seven Commissioners. In the past year the Commissioners met on four occasions.

John E.S. Briggs continued to serve as Executive Director and General Counsel and William Laurence as Legal Research Counsel. The Commission's Administrative Assistant Mary Bowen, retired from the Commission at the end of the fiscal year.

The Commission was very fortunate to have had the exceptional services of Ms. Bowen for the past four years. Ms. Bowen made an outstanding contribution to the work of the Commission, a fact which was noted and commented upon by both the bench and the bar.

The Commission was also fortunate this year to continue to have the benefit of the services of William H. Charles, Q.C. as Special Counsel to the Commission. Mr. Charles has provided especially valuable assistance with respect to the Rules Revision Project.

Funding & Finances

During the past fiscal year, the Commission's core funding of $250,000 has been provided equally (50%) by the Law Foundation of Nova Scotia and the Government of Nova Scotia. In addition, the Government provided the Commission with $14,500 of supplementary funding in support of the work of the Rules Revision Project.

It should be noted, however, that (except for the supplementary amounts to support the Rules Revision Project), the Commission's budget has remained virtually static for the past five years at the level of $250,000 per annum.

The Commission's financial statement for the year ending 31 March 2006 is attached to this report as **Appendix B**.

The Commission continued to operate during the current fiscal year within its' available resources. The year began with a surplus of $14,116, which at year end stood at $5,242.

C. TAKING STOCK AND LOOKING AHEAD

In looking ahead, it may be instructive to take stock. This is the Commission's Fifteenth Annual Report since its establishment in 1991. In boxing if you're still standing at the end of 15 rounds, it may be considered a success. We are, of course, pleased to be *still standing*, particularly after the near demise of the Commission in 2000, and the ensuing financial uncertainty. More importantly, however, we do believe as we reflect on the past 15 years, that the Commission has made a worthwhile contribution to law reform in the Province of Nova Scotia.

During that time the Commission has produced as noted above 36 project reports, a number of which have resulted in legislation. Over the past several years, the Provincial Government has introduced legislation based upon Commission recommendations dealing with Builder's Liens and Involuntary Psychiatric Treatment. It is also noteworthy that while this report was being written, the Government's recently introduced legislation to amend the *Wills Act*, had passed second reading in the House with the unanimous support of all parties. It is important to underscore, however, that legislative action in response to Commission recommendations, while gratifying, is not the only nor always the most important measure of the success of an independent law reform agency.

Notwithstanding its' modest resources, which insofar as its' core funding is concerned, have remained the same over the past five years, the Commission has been able in recent years to significantly reduce the time taken to complete its projects.

It should go without saying that it is essential to the health of any legal system that it have an effective means to renew and reform itself. We believe that a law reform agency provides a very cost effective means of achieving just that.

There have been some recent encouraging signs internationally and in Canada of increasing interest in and support for independent law reform agencies. For example, the recently established Commonwealth Association of Law Reform Agencies is reflective of renewed support on the international front. Also, the Ontario Attorney General's announcement in January that Ontario will re-establish a law reform commission this year is very encouraging news. Five years ago, the Commission issued a report which in attempting to make the case for the Law Reform Commission of Nova Scotia, spoke of the continuing need for law reform. The Commission's report stated:

> *"Our political and legal system is founded upon the principle of the rule of law. Adherence to that principle however, depends, in no small measure, on respect for the law and the system for the administration of justice. It is not too great a leap to suggest that systematic law reform activities have a significant and essential contribution to make to the maintenance of the rule of law."*

Events since that time, both at home and abroad, have only re-enforced the Commission's assessment of five years ago.

The focus of law reform efforts cover quite a wide spectrum as we look across the country and around the world. In Afghanistan and Iraq for example, enormous human and financial resources are being expended in order to establish an environment within which the rule of law might function even in its most basic or primitive form. In our own hemisphere, Argentina, an emerging and fragile democracy, has yet to establish an independent judiciary, an essential adjunct to the rule of law.

Law reform concerns in Canada are perhaps of a different order of magnitude than those in many other parts of the world. While adherence to the principle of the rule of law is strong in Canada, it can only remain so as long as we attend to the ongoing law reform work which maintains that principle's strength. That is why reform of the civil justice system in Canada is such an important and pressing issue.

Law reform is best carried out as a collaborative enterprise, which engages legislators, the bench and bar, the academic community, interested groups and members of the public. Independent law reform agencies, whilst only one of the players on the field, have the potential to make a unique and valuable contribution to this process. We believe that the Nova Scotia Law Reform Commission yields good value to Nova Scotians in exchange for a very modest investment.

In summary, the 2005-2006 fiscal year was a positive one in which the Commission continued to make a critical contribution to the work of the Civil Procedures Rules Revision Project. In addition, the Commission completed or initiated several other projects whilst enhancing our support in the community. Notwithstanding continuing financial uncertainty, we enter the fiscal year 2006-07 with optimism and enthusiasm for our work.

D. COMMISSIONERS AND STAFF

Commissioners

Anthony L. Chapman
Commissioner (2004 -)
Mr. Chapman was nominated to the Law Reform Commission by the Nova Scotia Barristers' Society in June 2004. He has been a member of the Nova Scotia Bar since 1980. A partner in the Halifax office of the law firm Cox Hanson O'Reilly Matheson, Mr. Chapman specializes in corporate/commercial law, real property law, secured transactions, and environmental law.

Thomas A. Cromwell
Commissioner (2002 -)
Mr. Cromwell was called to the Ontario Bar in 1979 and to the Nova Scotia Bar in 1984. In 1997, he was appointed to the Court of Appeal of Nova Scotia. Prior to his judicial appointment, he practiced law in Ontario and taught at the faculties of law at both Queen's and Dalhousie Universities.

Keith R. Evans
Commissioner (2002 -)
Appointed to the Commission in January 2002, Mr. Evans is the General Counsel for KMC Oiltools, an international fluid and waste management company. His extensive professional background includes work as a legal academic and practicing lawyer, both in Nova Scotia and overseas. Mr. Evans is President of the Commission.

Diana Ginn
Commissioner (2002 -)
Ms. Ginn was appointed by to the Commission in June of 2002. She is Associate Dean, Academic and an associate professor at the Faculty of Law, Dalhousie University, teaching in the areas of property law, administrative law, health law and women in the law. Ms. Ginn specializes in research and writing in these subject areas, and has published numerous articles.

Darlene Jamieson
Commissioner (2002 -)
The Council of the Nova Scotia Barristers' Society appointed Ms. Jamieson to the Law Commission Board in June of 2002. She has been a Partner in the law firm Merrick Jamieson Sterns Washington & Mahody since 1998 with preferred areas of practice being civil litigation, including insurance, banking, construction and employment law. She has held numerous and varied posts with the Nova Scotia Barristers' Society.

John L. McMullan
Commissioner (2006 -)
Dr. McMullan is a Professor of Sociology and Criminology and the former Chairperson and Criminology Graduate Studies Coordinator at Saint Mary's University. He is the author of several books and numerous articles on business crime, law enforcement, social regulation, media, law and justice, and gambling and social policy. Dr. McMullan is a multiple research award holder and he has served on many university, academic, professional, and government councils and boards. He is currently interested in the role of public inquiries and truth, and the legal context of new forms of permitted gambling in Canada.

E. Arleen Paris
Commissioner (2002 -)
Ms. Paris was appointed to the Commission in January 2002. She is a retired medical laboratory technologist, who worked with the Nova Scotia Department of Agriculture and Fisheries, as well as at hospitals in Nova Scotia and New Brunswick. A resident of Truro, Ms. Paris is involved in a number of community activities.

Staff

John E.S. Briggs
Executive Director & General Counsel
Mr. Briggs, a graduate of Carleton, Queens and Oxford universities, was called to the Bar in 1974. He has been Executive Director of the Commission since 2001, and also acts as Outside Counsel to the Federal Minister of Justice on alleged miscarriage of justice cases. Mr. Briggs holds membership in the law societies of Ontario and the Territory of Nunavut as well as Nova Scotia, and is the President of the Federation of Law Reform Agencies of Canada.

William H. Laurence
Legal Research Counsel
Mr. Laurence joined the Commission in September, 1998. He has a B.A. (Hon.) from Carleton University, an LL.B. from McGill University as well as an LL.M. and M.L.I.S. from Dalhousie University. He worked as a legal researcher and practiced law before joining the Commission.

Mary Bowen
Administrative Assistant
Ms. Bowen joined the Commission in June of 2002. She has extensive experience in senior executive secretarial positions.

William H. Charles, Q.C.
Special Counsel
Mr. Charles is assisting the Commission on an as needed basis, particularly in support of the Rules Revision Project. He is a graduate of Dalhousie (where he was Dean of Law 1979-1985), Concordia, Harvard and Michigan universities. Mr. Charles was President of the Law Reform Commission from 1991 to 1995. He serves on a number of Boards and Councils in Nova Scotia.

Appendix A.

The Law Reform Commission Act

CHAPTER 17 OF THE ACTS OF 1990

An Act to Establish an Independent Law Reform Commission

Short title

1 This Act may be cited as the *Law Reform Commission Act.* 1990, c.17, s.1.

Interpretation

2 In this Act, "Commission" means the Law Reform Commission of Nova Scotia. 1990, c.17, s.2.

Law Reform Commission of Nova Scotia

3 There is hereby established a body corporate to be known as the Law Reform Commission of Nova Scotia. 1990, c.17, s.3.

Object of Commission

4 The object of the Commission is to review the law of the Province and any matter relating to law in the Province and to make recommendations for improvement, modernization and reform including, without limiting the generality of the foregoing, recommendations for

(a) development of new approaches to, and new concepts of, law that serve the changing needs of society and of individual members of society;

(b) clarification and simplification of the law;

(c) removal of provisions of the law that are outdated;

(d) improvement of the administration of justice;

(e) review of judicial and quasi-judicial procedures. 1990, c.17, s.4.

Composition of Commission

5 (l) The Commission shall be composed of not fewer than five nor more than seven commissioners who may be appointed, either on a full-time basis or a part-time basis, as follows:

(a) two members of the Nova Scotia Barristers' Society appointed by the Council of the Society;

(b) a judge of a court of the Province, appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia and the chief judge of the court of which the judge is a member;

(c) a full-time member of the Faculty of Law of Dalhousie University appointed

by the Governor in Council after consultation with the Dean of the Faculty;

(d) a person who is not a graduate in law appointed by the Governor in Council;

(e) where the Governor in Council determines that the Commission is to be composed of more than five commissioners, one or two persons appointed by the Governor in Council.

Term of office of commissioner

(2) Each commissioner holds office for a term of three years, except that one of the first commissioners appointed by the Council of the Nova Scotia Barristers' Society and one of the first commissioners appointed by the Governor in Council shall be appointed for a term of two years.

Ceasing to be a commissioner

(3) A person ceases to be a commissioner where

(a) that person fails to attend three consecutive regular meetings of the Commission, except where the Commission by resolution excuses the absences; or

(b) the composition of the Commission ceases to comply with this Act as a result of the person ceasing to be a person described in clause (a), (b), (c) or (d) of subsection (1).

Casual vacancies

(4) Where a person ceases to be a commissioner for any reason other than the expiration of that person's term of office, the Governor in Council or the Council of the Nova Scotia Barristers' Society, as the case may be, shall appoint a person for the unexpired portion of the term.

Re-appointment of commissioner

(5) A commissioner whose term of office has expired may be re-appointed.

Expiry of term of office

(6) A commissioner whose term of office expires continues to hold office until a successor is appointed.

Vacancy

(7) A vacancy in the membership of the Commission does not impair the ability of the remaining members to act. 1990, c.17, s.5.

President of Commission

6 The commissioners shall appoint one of the members of the Commission to be the President of the Commission. 1990, c.17, s.6.

Remuneration and expenses

7 The President and other members of the Commission may be paid such remuneration and shall be paid such travelling and living expenses as may be determined by the Governor in Council. 1990, c.17, s.7.

Powers of Commission

8 (1) The Commission may

(a) receive and consider any proposals for the reform of the law that may be made to it by any person;

(b) initiate, carry out and direct such studies and research as are necessary to properly carry out its object;

(c) publish papers, studies or other documents prepared by or for the Commission;

(d) co-operate or enter into agreements with any organization that undertakes projects relating to the object of the Commission within or outside the Province;

(e) with the concurrence of the Attorney General and to the extent that the Commission is able to do so without, in its opinion, impairing its ability to carry out its object or duties, provide information, research material and study results and make recommendations to departments, boards and agencies of the Government of the Province concerned with the improvement, modernization or reform of laws;

(f) regulate its proceedings and provide generally for the conduct and management of its affairs;

(g) do such things and take such measures as the Commission considers advisable for the achievement of its object, including the making of by-laws.

Duties and further powers of Commission

(2) The Commission

(a) may make use of technical and other information, advice and assistance from departments, boards and agencies of the Government of the Province;

(b) shall undertake, at the request of the Attorney General, in a manner as determined by the Commission, the examination of particular laws or branches of the law and make recommendations for their improvement, modernization and reform. 1990, c.17, s.8.

Meetings of Commission

9 The Commission shall meet at least four times in each year. 1990, c.17, s.9.

Personnel

10 (1) An Executive Director and such persons as are required for the administration of this Act and the regulations shall be appointed by the Commission, in accordance with the *Civil Service Act*.

Function of Executive Director

(2) The Executive Director has the management, direction, control and administration of the day-to-day operations of the Commission.

Advisers

(3) Notwithstanding subsection (1), the Commission may engage, upon such terms and conditions as the Commission deems fit, the services of such professional persons, technical persons and experts to advise the Commission as the Commission deems necessary for the carrying out of its object. 1990, c.17, s.10.

Appropriation of money

11 (1) Money appropriated by the Legislature for the purpose of this Act shall be paid out by the Attorney General.

Law Reform Commission Fund

(2) The Commission shall maintain an account to be under the control and management of the Commission, to be known as the Law Reform Commission Fund, into which the Attorney General may pay from time to time any sum of money appropriated and into which may be paid any sum of money contributed as a grant or gift by any person, organization or body.

Use of money in Fund

(3) Except where a stipulation or condition is expressed in relation to a sum of money paid into the Law Reform Commission Fund, the money in the Fund may be used by the Commission for the purpose of this Act. 1990, c.17, s.11.

Annual report to Attorney General

12 (1) The Commission shall report from time to time to the Attorney General and shall make an annual report to the Attorney General on the activities of the Commission.

Tabling of annual report

(2) The Attorney General shall table the annual report of the Commission in the Assembly, if the Assembly is then sitting and, if the Assembly is not sitting, within fifteen days of its next sitting.

Other report

(3) Where the Commission reviews, considers or inquires into a matter, the Commission shall make a report to the Attorney General with respect to that matter at the conclusion of its deliberations.

Publication of report

(4) The Commission may publish a report made pursuant to this Section. 1990, c.17, s.12.

Repeal

13 Chapter 251 of the Revised Statutes, 1989, the *Law Reform Act*, is repealed. 1990, c.17, s.13.

Proclamation

14 This Act comes into force on and not before such days as the Governor in Council orders and declares by proclamation. 1990, c.17, s.14.

Proclaimed	-	January 22, 1991
In force	-	February 1, 1991

Appendix B.

Financial Report for the 2005-2006 Fiscal Year

LAW REFORM COMMISSION OF NOVA SCOTIA
Balance Sheet as at 3/31/06

ASSETS			
CURRENT ASSETS			
Petty cash			25.00
Bank Operating Account	6,350.40		
Cashable GICs	0.00		
Total Cash			6350.40
HST Receivable			4837.02
GST Receivable			65.20
TOTAL CURRENT ASSETS			11,277.62
FIXED ASSETS			
Computer Equipment		19,059.16	
Accum Computer Equipment		-19,059.16	
Net Office Equipment			0.00
TOTAL FIXED ASSETS			11,277.60
TOTAL ASSETS			
LIABILITIES			
CURRENT LIABILITIES			
Vacation Payable			-1965.06
UIC Payable		0.00	
CPP Payable		0.00	
Income Tax Payable		0.00	
Receiver General Payable			0.00
Accrued income			8,000.00
TOTAL CURRENT LIABILITIES			6,034.94
TOTAL LIABILITIES			
EQUITY			
SURPLUS			
Surplus Beginning of Year			14,116.68
Surplus Current Year			-8,874.00
ACCUMULATED SURPLUS			5,242.68
TOTAL EQUITY			5,242.68
LIABILITIES AND EQUITY			11,277.62

LAW REFORM COMMISSION OF NOVA SCOTIA

Income Statement as at 3/31/06

REVENUE		
OPERATING INCOME		
Dept. of Justice Nova Scotia		151,500.00
NS Law Foundation contribution		125,000.00
Miscellaneous Income		0.00
Interest income		2,692.06
TOTAL CONTRIBUTIONS		279,192.06
TOTAL REVENUE		279,192.06
EXPENSE		
ADMINISTRATIVE EXPENSES		
Wages	187,169.04	
EI expense	3,288.74	
CPP expense	5,721.46	
Group insurance expense	9,850.82	
TOTAL PERSONNEL RELATED		206,030.03
Advertising		0.00
Commissioners fees & expenses		788.00
Electrical expense		1,016.29
Meeting costs		749.94
Library		3,523.26
Accounting fees		0.00
Membership dues		445.00
Professional fees		3,301.40
Computer software/supplies/repairs		8,299.75
Internet		1,363.15
Staff expenses		2,154.43
Temp Staff Expenses		2,500.00
Rent	24,652.52	
Office equipment rental	3,311.18	
Insurance	1,231.00	
TOTAL PREMISES RELATED		29,194.70
Office supplies	2,158.09	
Parking	106.74	
Photocopy/printing	3,143.92	
Postage & courier	1,723.98	
Telephone expense	3,102.55	
Travel/conference/workshop	6,937.41	
Office Equip Maintenance	74.95	
TOTAL OFFICE RELATED		17,247.64
Bank charges		137.00
Miscellaneous		1,146.28
Contract Research		5,265.00
HST paid on purchases		4,876.82
GST paid on purchases		27.34
TOTAL ADMINISTRATION		288,066.06
TOTAL EXPENSE		288,066.06
NET INCOME		-8,874.00

Appendix C.

List of Publications (by project) 1991-2006

Law Reform Commission Publications

(As of March 31, 2006)

Administrative Justice System

(Agencies, Boards and Commissions - ABC Report)

- *Agencies Boards and Commissions: The Administrative Justice System* (Discussion Paper, January 1996
- *Reform of the Administrative Justice System in Nova Scotia* (Final Report, January 1997)

Adult Guardianship/Advance Health Care Directives

- *Adult Guardianship in Nova Scotia* (Discussion Paper, September 1993)
- *Living Wills in Nova Scotia* (Discussion Paper, November 1994)
- *Adult Guardianship and Personal Health Care Decisions* (Final Report, November 1995)

Domestic Violence

- *Violence in a Domestic Context* (Discussion Paper, March 1993)
- *From Rhetoric to Reality, Ending Domestic Violence in Nova Scotia* (Final Report, February 1995)

Enduring Powers of Attorney

- *Enduring Powers of Attorney in Nova Scotia* (Discussion Paper, June 1998)
- *Enduring Powers of Attorney in Nova Scotia* (Final Report, September 1999)

Enforcement of Maintenance Obligations

- *Enforcement of Maintenance Obligations* (Discussion Paper, July 1992)
- *Enforcement of Maintenance Obligations* (Final Report, November 1992)

Future of the Law Reform Commission

- *A Continuing Need for Law Reform: The Case for the Law Reform Commission of Nova Scotia* (Report, December 2001)

Interim Payment of Damages

- *Interim Payment of Damages* (Discussion Paper, January 2000)
- *Interim Payment of Damages* (Final Report, February 2001)

Jury System

- *Reform of the Jury System in Nova Scotia* (Discussion Paper, May 1993)
- *Reform of the Jury System in Nova Scotia* (Final Report, June 1994)

Matrimonial Property

- *Matrimonial Property in Nova Scotia: Suggestions for a New Family Law Act* (Discussion Paper, April 1996)
- *Reform of the Law Dealing with Matrimonial Property in Nova Scotia* (Final Report, March 1997)

Mechanics' Lien Act

- *Builders' Liens in Nova Scotia: Reform of the Mechanics' Lien Act* (Discussion Paper, January 2003)
- *Builders' Liens in Nova Scotia: Reform of the Mechanics' Lien Act* (Final Report, June 2003)

Mental Health Provisions

- *Mental Health Provisions of the Hospitals Act* (Discussion Paper, September 2000)
- *Mental Health Provisions of the Hospitals Act* (Final Report, February 2002)

Mortgage Foreclosure and Sale

- *Mortgage Foreclosure and Sale* (Discussion Paper, July 1997)
- *Mortgage Foreclosure and Sale* (Final Report, September 1998)

Privity of Contract

- *Privity of Contract (Third Party Rights)* (Discussion Paper, March 2004)
- *Privity of Contract (Third Party Rights)* (Final Report, August 2004)

Probate

- *Probate Reform in Nova Scotia* (Discussion Paper, March 1998)
- *Probate Reform in Nova Scotia* (Final Report, March 1999)

Status of the Child Born Outside Marriage

- *The Legal Status of the Child Born Outside of Marriage in Nova Scotia* (Discussion Paper, August 1993)
- *The Legal Status of the Child Born Outside of Marriage in Nova Scotia* (Final Report, March 1995)

Structured Settlements

- *Court-ordered Structured Settlements for Personal Injury Damage Awards* (Background Paper, August 2004)

Tortfeasors

- *Joint Tortfeasors & the Common Law "Release Bar Rule"* (Final Report, July 2002)

Vexatious Litigants

- *Vexatious Litigants* (Discussion Paper, November 2005)
- *Vexatious Litigants* (Final Report, March 2006)

Wills Act

- *Reform of the Nova Scotia Wills Act* (Discussion Paper, July 2003)
- *Reform of the Nova Scotia Wills Act* (Final Report, November 2003)

Fourteen Annual Reports

- April 1, 1991 - March 31, 1992
- April 1, 1992 - March 31, 1993
- April 1, 1993 - March 31, 1994
- April 1, 1994 - March 31, 1995
- April 1, 1995 - March 31, 1996
- April 1, 1996 - March 31, 1997
- April 1, 1997 - March 31, 1998
- April 1, 1998 - March 31, 1999
- April 1, 1999 - March 31, 2000
- April 1, 2000 - March 31, 2001
- April 1, 2001 - March 31, 2002
- April 1, 2002 - March 31, 2003
- April 1, 2003 - March 31, 2004
- April 1, 2004 - March 31, 2005